



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,241	03/13/2001	Deane Gardner	004470.P009	6573

8791 7590 12/15/2003

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, SEVENTH FLOOR
LOS ANGELES, CA 90025

EXAMINER

ESCALANTE, OVIDIO

ART UNIT	PAPER NUMBER
2645	10

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/757,241

Applicant(s)

GARDNER ET AL.

Examiner

Ovidio Escalante

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,6,8,9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement submitted on January 8, 2001, February 23, 2001, April 30, 2001 and June 18, 2001 was received. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7, 11-18, 22, 23, 25-27, 29, 30, 32-34, 36, 37, 39-41, 43, 44, 46 and 47 are rejected under 35 U.S.C. 102(e) as being anticipated by Schweickart et al. US Patent 6,252,883.

Regarding claims 1, 12, 46 and 47, Schweickart teaches a method and computer readable medium that provides instruction when executed on a processor for integrating personal data capturing functionality into a wireless/portable communication/computing device, (col. 4, lines 42-51), the method comprising:

receiving personal data of a user by at least one personal parameter receiver, (col. 4, lines 42-51; col. 5, lines 13-16);

capturing the personal data in the wireless/portable communication/computing device, (col. 3, lines 9-24; col. 5, lines 48-53); and

Art Unit: 2645

transmitting the personal data from the wireless/portable communication/computing device to a network server over a wireless network, (fig. 1; col. 5, lines 17-25, 48-56).

Regarding claims 2 and 13, Schweickart teaches wherein the at least one personal parameter receiver is contained in a personal data capture device (e.g. wristband) attachable to the wireless/portable communication/computing device, (fig. 3; col. 5, lines 13-25).

Regarding claims 3 and 14, Schweickart teaches wherein the at least one personal parameter receiver is contained in the wireless/portable communication/computing device, (fig. 3; col. 5, lines 13-25).

Regarding claims 4 and 15, Schweickart teaches wherein the wireless/portable communication/computing device is a cellular telephone (col. 3, lines 12-13) or a personal digital assistant (PDA), (col. 3, lines 11-24).

Regarding claims 5 and 16, Schweickart teaches wherein the personal data is transmitted to the network server periodically, (col. 5, lines 14-16).

Regarding claims 6 and 17, Schweickart teaches wherein the personal data is transmitted to the network server upon receiving a user request, (col. 4, lines 61-67; col. 5, lines 17-25, 48-56).

Regarding claims 7 and 18, Schweickart teaches wherein the personal data comprises physical data and biometrical parameters of the user, (col. 5, lines 48-56).

Regarding claim 11, Schweickart teaches wherein the wireless communication device is combined with a portable computing device, (col. 3, lines 9-24).

Art Unit: 2645

Regarding claims 22,29,36 and 43, Schweickart teaches a multi-purpose device combining a wireless communication device with a portable/personal computing device, (col. 4, lines 42-51), the multi-purpose device comprising:

at least one personal parameter receiver to receive personal data of a user, (col. 4, lines 42-51);

a microprocessor, coupled to the at least one personal parameter receiver, (fig. 3); and

a memory, coupled to the microprocessor, to store the personal data, the microprocessor to transmit the personal data from the memory to a network server over a wireless network, (fig. 1; col. 5, lines 17-25,48-56).

Regarding claims 23,30, 37 and 44, Schweickart teaches an input device to receive a user request to transmit the personal data to the network server, (col. 5, lines 17-25,48-56).

Regarding claims 25,32 and 39, Schweickart teaches an apparatus comprising:

a wireless/portable communication/computing device and a multi-purpose device combining a wireless communication device and a portable computing device, (col. 4, lines 42-51); and

a personal data capture device (wristband 69; fig. 3), attachable to the wireless/portable communication/computing device, (col. 5, lines 13-25), to receive personal data of a user and to transmit the personal data to the wireless/portable communication/computing device, (col. 4, lines 42-51; col. 5, lines 13-16), the wireless/portable communication/computing device to transmit the personal data to a network server over a wireless network, (col. 5, lines 17-25,48-56).

Art Unit: 2645

Regarding claims 26,33 and 40, Schweickart teaches wherein the wireless/portable communication/computing device is a cellular telephone or personal digital assistant (PDA). (col. 3, lines 11-24).

Regarding claims 27,34 and 41, Schweickart teaches wherein the personal data capture device comprises an input device to receive a user request to transmit the personal data to the network server, (col. 5, lines 17-25,48-56).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 8-10,19-21,24,28,31,35,38,42 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schweickart in view of Goodman US Patent 5,827,180.

Regarding claims 8-10,19-21,24,28,31,35,38,42 and 45, while Schweickart teaches of generating feedback information pertaining to the personal data, Schweickart does not specifically teach of displaying the information to the user. However, Schweickart suggests of

Art Unit: 2645

displaying the information to medical personal or other individuals therefore, it would have been obvious to display the information to the user so that the user will know their current medical status.

Nonetheless, Goodman teaches that it was well known in the art to monitor a user with a personal communication device and to generate feedback information pertaining to personal data and to display the information on the display of the personal communication device, (abstract; fig. 2; col. 2, lines 61-65; col. 4, lines 45-62).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Schweickart by displaying the information to the user on their personal communication device as taught by Goodman so that the user will know their medical status so that they can administer more medication or call their health care provider if the received information warrants such action.

Conclusion

7. Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

or faxed to:

(703) 872-9306, (for formal communications intended for entry)

Or:

(703) 872-9314, (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Art Unit: 2645

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is (703) 308-6262. The examiner can normally be reached on Monday to Friday from 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached on (703) 305-4895. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [fan.tsang@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Ovidio Escalante
Examiner
Group 2645
December 8, 2003

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

